IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 34 of 2004 (S/B)

Prabal Singh Butola S/o Sri Bachan Singh Butola,
Presently posted as Tehsildar, Vikas Nagar,
Dehradun, R/o Saraswat Vihar,
Ajabpur Kala, D-Block,
Dehradun. …… Petitioner

Versus

1. State of Uttaranchal through Secretary (Karmik),
   Govt. of Uttaranchal, Secretariat, Dehradun.
2. Chief Revenue Commissioner,
   Govt. of Uttaranchal, Dehradun.
3. Commissioner Garhwal Mandal, Pauri,
   District Pauri Garhwal.
4. District Magistrate / Collector,
   Dehradun. …… Respondents

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Writ Petition No. 385 of 2004 (S/B)

Prabal Singh Butola S/o Sri Bachan Singh Butola,
Presently posted as Tehsildar, Vikas Nagar,
Dehradun, R/o Saraswat Vihar,
Ajabpur Kala, D-Block,
Dehradun. …… Petitioner

Versus

1. State of Uttaranchal through Secretary (Karmik),
   Govt. of Uttaranchal, Secretariat, Dehradun.
2. Chief Revenue Commissioner,
   Govt. of Uttaranchal, Dehradun.
3. District Magistrate, Dehradun.
4. Sri Mohan Singh Bankoti,
   Deputy Collector, Bageshwar.
5. Sri Pooranmal Sharma,
   Deputy Collector, Uttarkashi.
6. Sri Dharmanand Ghildiyal,
   Deputy Collector, Uttarkashi.
7. Ajay Kumar Singh,
   Deputy Collector, Champawat. …… Respondents

Mr. Sudhanshu Dhulia, Senior Advocate on behalf of the petitioner.

Coram: Hon. V.S. Sirpurkar, C.J.
Hon. Rajesh Tandon, J.

(Per Hon'ble the Chief Justice)

1. Heard Mr. Sudhanshu Dhulia, Senior Advocate appearing on behalf of the petitioner.

2. The writ petition No. 34 of 2004 (S/B) was filed by the petitioner earlier challenging the supersession. When the notice before admission was issued in that writ petition, the Government came out with an explanation that there was an adverse entry handed in the confidential record of the petitioner. That confidential entry was ordered by way of punishment in the year 1998 for the alleged irregularities in the auction held by the petitioner of a bus somewhere in the year 1992. The petitioner had argued that the said entry could not have been taken into consideration because the representation or as the case may be, the appeal against the entry was already pending with the Government and the Government had not passed any order either accepting or rejecting that.

3. Considering that, this Court directed the Government to consider the whole affair within one month and or to offer the promotion to the petitioner, if the appeal against the said entry could be entertained and could be allowed. Now, it seems that taking the clue, the Government has passed an order dated 16.11.2004, in which the representation-cum-appeal of the petitioner against the said punishment of adverse entry has been considered. The Government has dismissed the said representation-cum-appeal giving reasons.

4. Now, the petitioner has come up by way of the second writ petition, which is writ petition No. 385 of 2004 (S/B) challenging that order dated 16.11.2004, by which, the representation-cum-appeal of the petitioner has been rejected.

5. Considering everything, it is obvious that the earlier writ petition No. 34 of 2004 (S/B) has now become infructuous because the Government has, now, further acted and decided the

representation-cum-appeal. It is obvious that on the basis of the order dated 16.11.2004, the petitioner cannot be offered the promotion, however, the question would still be as to what is the life of the punishment handed out to the petitioner in the year 1998 for the irregularities, which were alleged to have been done in the year 1992-93. That question, in our opinion, can be conveniently gone into by the Public Service Tribunal, which is working here. The writ petition No. 385 of 2004 is, therefore, disposed of with a liberty to the petitioner to approach the Tribunal. If so approached, the Tribunal is requested to dispose of the matter as early as possible and under no circumstances, beyond 4 months from the date of its filing.

6. Accordingly, both the writ petitions are disposed of.

(Rajesh Tandon, J.) **(V.S. Sirpurkar, C.J.)**
17.12.2004 **17.12.2004**

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